

To: Ytusi, LLC(realfashionanimalz@gmail.com)
Subject: U.S. Trademark Application Serial No. 97470440 -
Sent: April 27, 2023 10:31:07 AM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[97327320](#)
[4862509](#)
[4948245](#)
[6684775](#)
[6906886](#)
[6928847](#)
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United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 97470440

Mark:

Correspondence Address:

YTUSI, LLC
125 REMOUNT RD C1-1053
CHARLOTTE NC 28203 UNITED STATES

Applicant: Ytusi, LLC

Reference/Docket No. N/A

Correspondence Email Address: realfashionanimalz@gmail.com

NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

Request an extension. For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant’s response to this letter within six months of the “Issue date” to avoid abandonment of the application.

Issue date: April 27, 2023

INTRODUCTION

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issues below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

SUMMARY OF ISSUES:

- Prior-Filed Application
- Section 2(d) Refusal – Likelihood of Confusion
- Refusal under Section 1 and 45 -- More than one Mark
- Refusal under Sections 1, 2, and 45
- More Information Required
- Amended Drawing, Description of the Mark, and Color Claim Required

PRIOR-FILED APPLICATION

The filing date of pending U.S. Application Serial No. 97327320 precedes applicant's filing date. *See* attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 4948245 for the color green on the sole of a shoe and 4862509 for the color green on the insole of footwear. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP

§§1207.01 *et seq.* See the attached registrations.

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods of the parties. See 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the “*du Pont* factors”). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, “not all of the *DuPont* factors are relevant or of similar weight in every case.” *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared goods. See *In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) (“The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks.”); TMEP §1207.01.

Applicant's mark is Pantone PMS 3425 green color for "Boots; Footwear; Shoe soles; Insoles for boots" in International Class 25.

Registration No. 4948245 is the color green on the sole of a shoe for "shoes" in International Class 25.

Registration No. 4862509 is the mark the color green on the insole of footwear for "inserts for footwear" in International Class 25.

Similarity of the Goods

Applicant's goods are closely related to registrant's goods as set forth below.

The goods are compared to determine whether they are similar, commercially related, or travel in the same trade channels. See *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §§1207.01, 1207.01(a)(vi).

The compared goods need not be identical or even competitive to find a likelihood of confusion. See *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be “related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i); see *Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *44 (TTAB 2022) (quoting *In re Jump Designs LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006)).

When analyzing an applicant's and registrant's goods for similarity and relatedness, that determination

is based on the description of the goods in the application and registration at issue, not on extrinsic evidence of actual use. *See Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1323, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014) (quoting *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990)).

In this case, the goods in the application and Registration No. 4948245 are identical in part. Specifically, applicant's "shoes" are identical to Registration No. 4948245's "shoes". Therefore, it is presumed that the channels of trade and class(es) of purchasers are the same for these goods. *See Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 1372, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *In re Viterro Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012)).

Further, Registration No. 4862509 uses broad wording to describe "inserts for footwear", which presumably encompasses all goods of the type described, including applicant's more narrow "insoles for boots". *See, e.g., Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *44 (TTAB 2022); *In re Solid State Design Inc.*, 125 USPQ2d 1409, 1412-15 (TTAB 2018); *Sw. Mgmt., Inc. v. Ocinomled, Ltd.*, 115 USPQ2d 1007, 1025 (TTAB 2015). Thus, applicant's and registrant's goods are legally identical. *See, e.g., In re i.am.symbolic, llc*, 127 USPQ2d 1627, 1629 (TTAB 2018) (citing *Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp., Inc.*, 648 F.2d 1335, 1336, 209 USPQ 986, 988 (C.C.P.A. 1981); *Inter IKEA Sys. B.V. v. Akea, LLC*, 110 USPQ2d 1734, 1745 (TTAB 2014); *Baseball Am. Inc. v. Powerplay Sports Ltd.*, 71 USPQ2d 1844, 1847 n.9 (TTAB 2004)).

Additionally, the goods of the parties have no restrictions as to nature, type, channels of trade, or classes of purchasers and are "presumed to travel in the same channels of trade to the same class of purchasers." *In re Viterro Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)); *Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *49. Thus, applicant's and registrant's goods are related.

With respect to the non-identical and non-encompassing goods, the trademark examining attorney has attached evidence from the USPTO's X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods as those of both applicant and registrant in this case. This evidence shows that the goods listed therein, are of a kind that may emanate from a single source under a single mark. *See In re I-Coat Co.*, 126 USPQ2d 1730, 1737 (TTAB 2018) (citing *In re Infinity Broad. Corp.*, 60 USPQ2d 1214, 1217-18 (TTAB 2001); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988)); TMEP §1207.01(d)(iii).

Thus, applicant's goods are closely related to registrant's goods for likelihood of confusion purposes.

Where the goods of an applicant and registrant are identical or virtually identical, the degree of similarity between the marks required to support a finding that confusion is likely declines. *See Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 1373, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *In re Viterro Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012)); TMEP §1207.01(b).

Similarity of the Marks

Applicant's mark, Pantone PMS 3425 green color is confusingly similar to both of the registered marks the color green on the sole of a shoe and the color green on the insole of footwear, as set forth below.

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff’d per curiam*, 777 F. App’x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

When the marks at issue are color marks, similarity of the marks is determined primarily on the basis of visual similarity. *See, e.g., Volkswagenwerk Aktiengesellschaft v. Rose ‘Vear Enters.*, 592 F.2d 1180, 1183, 201 USPQ 7, 9 (C.C.P.A. 1979) (quoting *In re ATV Network Ltd.*, 552 F.2d 925, 929, 193 USPQ 331, 332 (C.C.P.A. 1977)); *Ft. James Operating Co. v. Royal Paper Converting Inc.*, 83 USPQ2d 1624, 1628 (TTAB 2007); TMEP §1207.01(c). However, a side-by-side comparison is not the test. *See Grandpa Pidgeon’s of Mo., Inc. v. Borgsmiller*, 477 F.2d 586, 587, 177 USPQ 573, 574 (C.C.P.A. 1973). When comparing design marks, the focus is on the overall commercial impression conveyed by such marks, not on specific differences. *See Grandpa Pidgeon’s of Mo., Inc. v. Borgsmiller*, 477 F.2d at 587, 177 USPQ at 574; *In re Triple R Mfg. Corp.*, 168 USPQ 447, 448 (TTAB 1970); TMEP §1207.01(c).

Incorporating the entirety of one mark within another does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). *See Wella Corp. v. Cal. Concept Corp.*, 558 F.2d 1019, 1022, 194 USPQ 419, 422 (C.C.P.A. 1977) (holding CALIFORNIA CONCEPT and surfer design and CONCEPT confusingly similar); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (holding BENGAL LANCER and design and BENGAL confusingly similar); *Double Coin Holdings, Ltd. v. Tru Dev.*, 2019 USPQ2d 377409, at *6-7 (TTAB 2019) (holding ROAD WARRIOR and WARRIOR (stylized) confusingly similar); *In re Mr. Recipe, LLC*, 118 USPQ2d 1084, 1090 (TTAB 2016) (holding JAWS DEVOUR YOUR HUNGER and JAWS confusingly similar); TMEP §1207.01(b)(iii). In the present case, the marks are identical in part. Both of the registered marks are the color green, which incorporates the entirety of applicant's Pantone PMS 3425 green color mark. Applicant failed to indicate how the color green is used on shoes in the drawing and mark description. As a result, the mark is interpreted broadly, i.e., all uses of green on shoes, including on soles and insoles.

As a result, the marks are confusingly similar and create the same overall commercial impression.

Therefore, upon encountering Pantone PMS 3425 green color used for "Boots; Footwear; Shoe soles; Insoles for boots", the color green on the sole of a shoe used for "shoes", and the color green on the insole of footwear used for "inserts for footwear", consumers are likely to be confused as to the source of the goods.

Applicant should note the following additional ground for refusal.

REFUSAL UNDER SECTIONS 1 AND 45 - MORE THAN ONE MARK

Registration is refused because applicant seeks registration of more than one mark in its application. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; *see* TMEP §1214.01. Specifically,

applicant is seeking registration of color in the abstract, without considering the manner or context in which the color is used; this would be contrary to law and public policy, because it would result in an unlimited number of marks being claimed in a single application. As explained in TMEP §1202.19(g), a swatch-type drawing is deemed to encompass numerous versions of the mark, each of which may create a different commercial impression, and thus the examining attorney must refuse registration under Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127, on the ground that the application seeks registration of more than one mark. *See In re Int'l Flavors & Fragrances Inc.*, 183 F.3d 1361, 1366, 51 USPQ2d 1513, 1516 (Fed. Cir. 1999) ("[U]nder the Lanham Act and the rules promulgated thereunder, a trademark application may only seek to register a single mark."); TMEP §1214.01.

An application must be limited to one mark. 37 C.F.R. §2.52; *see* 15 U.S.C. §1051(a)(1); *In re Int'l Flavors & Fragrances Inc.*, 183 F.3d 1361, 1366, 51 USPQ2d 1513, 1516 (Fed. Cir. 1999). A "phantom" mark typically includes a blank or dashed line, dots, underlining, or a designation such as "XXXX," which acts as a placeholder for a changeable element that depends on the use of the mark. *In re Int'l Flavors & Fragrances Inc.*, 183 F.3d at 1363 n.1, 51 USPQ2d at 1514 n.1; TMEP §1214. A mark with a changeable or "phantom" element, as in the present case, is generally considered to be more than one mark. *In re Constr. Rsch. & Tech. GmbH*, 122 USPQ2d 1583, 1585-86 (TTAB 2017) (citing *In re Primo Water Corp.*, 87 USPQ2d 1376, 1378 (TTAB 2008)); *see In re Int'l Flavors & Fragrances Inc.*, 183 F.3d at 1366, 1368, 51 USPQ2d at 1516, 1518; TMEP §1214.01.

Here, the applicant's applied-for mark is a swatch of the color Pantone PMS 3425 green as applied to "Boots; Footwear; Shoe soles; Insoles for boots" which could be used in different ways. *See* TMEP §1202.05(d)(i). Thus, the mark is phantom, i.e., in the abstract, because it changes depending on the manner in which it is used. Applicant does not state how the color is applied to all the items listed in the description or in connection with the goods identified. It is unclear whether the color appears on the entire packaging for the goods or if the color covers the entire surface of the goods or if the color appears on only a portion of the goods with the remaining area in another color. The commercial impression of the mark changes depending on how it is used on the goods. Furthermore, the color used on the entire surface of the goods would create a different commercial impression than the color used only on the sole of the footwear. Each of these uses constitutes a single mark, and therefore, cannot be applied for in a single application.

Marks that contain phantom elements do not provide sufficient notice to potential consumers and businesses of what the mark consists of when it is actually used in commerce. *See* TMEP §1214.01. Registering these marks could cause confusion about the source of products sold under the mark and prevent business owners from being able to rely on the federal trademark register when adopting their own marks for goods or services. *See id.*

As the [U.S. Court of Appeals for the Federal Circuit] discussed in [*In re Int'l Flavors & Fragrances Inc.*, 183 F.3d 1361, 51 USPQ2d 1513 (Fed. Cir. 1999)], a primary purpose of registration is to provide notice to potential users of the same or a confusingly similar mark, and that to serve this purpose, the mark, as registered, must accurately reflect the way it is used in commerce so that someone who searches the registers of the USPTO for the mark, or a similar mark, will locate the registered mark. The [Federal Circuit] further stated . . . that "phantom" marks with missing elements "encompass too many combinations and permutations to make a thorough and effective search possible. The registration of such marks does not provide proper notice to other trademark users, thus failing to help bring order to the marketplace and defeating one of the vital purposes of federal trademark registration."

In re Primo Water Corp., 87 USPQ2d 1376, 1378 (TTAB 2008).

In response to this refusal, the applicant may amend the swatch-type drawing to depict the mark on a particular item; amend the mark description to describe the placement of the mark on that item; and, if necessary, amend the identification to delete any goods that are inconsistent with the drawing (see TMEP §§1202.19(g)(ii), 1202.19(f)).

Applicant should note the following additional ground for refusal.

REFUSAL UNDER SECTIONS 1, 2, AND 45

Registration is refused because the applied-for color mark, consisting of one or more colors used on some or all of the surfaces of a product or product packaging, is not inherently distinctive. Trademark Act Sections 1, 2, and 45, 15 U.S.C. §§1051-1052, 1127; see *Qualitex Co. v. Jacobson Prods. Co.*, 514 U.S. 159, 166, 34 USPQ2d 1161, 1164 (1995); *In re Owens-Corning Fiberglas Corp.*, 774 F.2d 1116, 1121-23, 227 USPQ 417, 420-21 (Fed. Cir. 1985); TMEP §1202.05(a). Such marks are registrable only on the Supplemental Register or on the Principal Register with sufficient proof of acquired distinctiveness. See *In re Gen. Mills IP Holdings II, LLC*, 124 USPQ2d 1016, 1018 n.4 (TTAB 2017) (citing TMEP §1202.05(a)).

Color marks are never inherently distinctive and can only be registered on the Supplemental Register or on the Principal Register with sufficient proof of acquired distinctiveness. See *Qualitex Co. v. Jacobson Prods. Co.*, 514 U.S. 159, 162-63, 34 USPQ2d 1161, 1162-63 (1995); *In re Dimarzio, Inc.*, 2021 USPQ2d 1191, at *6 (TTAB 2021) (citing *Wal-Mart Stores, Inc. v. Samara Bros., Inc.*, 529 U.S. 205, 211-12, 54 USPQ2d 1065, 1068 (2000)); TMEP §1202.05(a).

In this case, applicant seeks registration for the color green associated with applicant's goods. The applied-for mark fails to function as a trademark because it consists solely of a color used on applicant's goods. When used in this manner, purchasers will not perceive the color as identifying applicant as the source of the goods; rather, purchasers will perceive the color as a non-source identifying feature of the goods because they are accustomed to encountering these types of goods offered in a variety of colors, including red, black, white, brown, blue, orange, yellow, and purple. See attached website excerpts from <https://www.finishline.com/> and <https://www.lulus.com/>.

Where the use of color is common in a particular field or industry, customers are more accustomed to recognizing color as a product feature that may enhance the attractiveness of the goods. See, e.g., *In re Dimarzio, Inc.*, 2021 USPQ2d 1191, at *14-19 (TTAB 2021); *In re Gen. Mills IP Holdings II, LLC*, 124 USPQ2d 1016, 1025 (TTAB 2017); *Saint-Gobain Corp. v. 3M Co.*, 90 USPQ2d 1425, 1441 (TTAB 2007). For that reason, an applicant in such a case has a difficult burden demonstrating that purchasers recognize a color as distinctive of applicant's goods. See *In re Dimarzio, Inc.*, 2021 USPQ2d 1191, at *24-25; *In re Gen. Mills IP Holdings II, LLC*, 124 USPQ2d at 1025; *Saint-Gobain Corp.*, 90 USPQ2d at 1441; TMEP §1202.05(a).

The burden of proving that a color mark has acquired distinctiveness is substantial. *In re Owens-Corning Fiberglas Corp.*, 774 F.2d 1116, 227 USPQ 417 (Fed. Cir. 1985) (holding the color pink used on fibrous glass residential insulation to have acquired distinctiveness based on evidence of twenty-nine years' use, extensive affidavit and documentary evidence, surveys, and extensive media advertising expenditures); *In re Am. Home Prods. Corp.*, 226 USPQ 327 (TTAB 1985) (holding combination of colors pink, white and yellow used on an analgesic/muscle relaxant tablet to have

acquired distinctiveness based on evidence of more than twenty years' use, extensive advertising, and sales of over two billion tablets from 1960-1980); *cf. In re Benetton Grp. S.p.A.*, 48 USPQ2d 1214 (TTAB 1998). A mere statement of long-time use of the color mark is not sufficient; an applicant must provide evidence demonstrating that the color mark has acquired source-indicating significance in the minds of consumers. TMEP §1202.05(a); *see* TMEP §1212.06.

Applicant's Options

The applied-for mark has been refused registration on the Principal Register. Applicant may respond by submitting evidence and arguments against the refusal. In addition, applicant may respond by doing one of the following: (1) amending the application to seek registration under Trademark Act Section 2(f), or (2) amending the application to seek registration on the Supplemental Register. *See* 15 U.S.C. §§1052(f), 1091.

To seek registration on the Principal Register based on a claim of acquired distinctiveness under Section 2(f), applicant generally may (1) submit actual evidence that the mark has acquired distinctiveness of the goods, (2) claim ownership of an active prior U.S. registration for the same mark for sufficiently similar goods, or (3) provide the following verified statement of five years' use: **“The mark has become distinctive of the goods and/or services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least five years immediately before the date of this statement.”** *See* 15 U.S.C. §1052(f); 37 C.F.R. §2.41(a); TMEP §§1212.03-.06 *et seq.*

However, in this case, **the USPTO will not accept a verified statement of five years' use alone to establish distinctiveness because applicant's mark is applicant's mark is a color mark and a mere statement of long use is insufficient as discussed above.** *See In re Kalmbach Publ'g Co.*, 14 USPQ2d 1490, 1491-92 (TTAB 1989); TMEP §1212.05(a). An applicant's evidentiary burden of showing acquired distinctiveness increases with the level of descriptiveness of the mark sought to be registered; a more descriptive term requires more evidence. *Royal Crown Co. v. Coca-Cola Co.*, 892 F.3d 1358, 1365, 127 USPQ2d 1041, 1045 (Fed. Cir. 2018) (citing *In re Steelbuilding.com*, 415 F.3d 1293, 1300, 75 USPQ2d 1420, 1424 (Fed. Cir. 2005)).

An applicant bears the burden of proving that a mark has acquired distinctiveness under Trademark Act Section 2(f). *In re La. Fish Fry Prods., Ltd.*, 797 F.3d 1332, 1335, 116 USPQ2d 1262, 1264 (Fed. Cir. 2015) (citing *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1422 (Fed. Cir. 2005)); TMEP §1212.01. “To show that a mark has acquired distinctiveness, an applicant must demonstrate that the relevant public understands the primary significance of the mark as identifying the source of a product or service rather than the product or service itself.” *In re Steelbuilding.com*, 415 F.3d at 1297, 75 USPQ2d at 1422.

To reiterate: applicant's Section 2(f) evidence must show that the public understands that the color applied for in this application identifies applicant alone as the source of the matter with other source-identifying matter such as wording or numbers.

Allegations of sales and advertising expenditures do not per se establish that a term has acquired significance as a mark. *See* TMEP §1212.06(b). An applicant must also provide the actual advertising material so that the examining attorney may determine how the term is used, the commercial impression created by such use, and the significance the term would have to prospective purchasers. TMEP §1212.06(b); *see In re Boston Beer Co.*, 198 F.3d 1370, 1373, 53 USPQ2d 1056, 1058 (Fed. Cir.

1999); *In re Packaging Specialists, Inc.*, 221 USPQ 917, 920 (TTAB 1984).

The ultimate test in determining acquisition of distinctiveness under Section 2(f) is not applicant's efforts, but applicant's success in educating the public to associate the claimed mark with a single source. *In re LC Trademarks, Inc.*, 121 USPQ2d 1197, 1208 (TTAB 2016) (quoting *Mini Melts, Inc. v. Reckitt Benckiser LLC*, 118 USPQ2d 1464, 1480 (TTAB 2016)); TMEP §1212.06(b).

To amend the application to the Supplemental Register, applicant must provide a written statement requesting that the application be amended to the Supplemental Register. TMEP §816.01; *see* 15 U.S.C. §1091; 37 C.F.R. §2.47.

Although applicant's mark has been refused registration, applicant may respond to the refusals by submitting evidence and arguments in support of registration. However, if applicant responds to the refusals, applicant must also respond to the requirements set forth below.

MORE INFORMATION REQUIRED

To permit proper examination of the applied-for color mark, applicant must provide the following information and documentation:

- (1) An explanation whether the identified color serves any purpose as used on the goods;
- (2) An explanation whether the identified color is a natural by-product of the manufacturing process for the goods;
- (3) Any available advertising, promotional or explanatory literature concerning the goods, particularly any material that relates specifically to the applied-for color mark;
- (4) An explanation whether any statutes, regulations, ordinances, codes or industry standards require, regulate and/or standardize the use of the identified color on the goods;
- (5) An explanation as to the use of the identified color in applicant's industry and any other similar use of color in applicant's industry;
- (6) An explanation describing any other similar use of color by applicant;
- (7) An explanation whether competitors produce the goods in the identified color and in color(s) other than the identified color; and
- (8) Color photographs and color advertisements showing competitive goods in applicant's industry.

See 37 C.F.R. §2.61(b); TMEP §§814, 1402.01(e).

Applicant has a duty to respond directly and completely to this requirement for information. *See In re Ocean Tech., Inc.*, 2019 USPQ2d 450686, at *2 (TTAB 2019) (citing *In re AOP LLC*, 107 USPQ2d 1644, 1651 (TTAB 2013)); TMEP §814. Failure to comply with a requirement for information is an

independent ground for refusing registration. *In re SICPA Holding SA*, 2021 USPQ2d 613, at *6 (TTAB 2021) (citing *In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re DTI P'ship LLP*, 67 USPQ2d 1699, 1701-02 (TTAB 2003); TMEP §814).

AMENDED DRAWING, DESCRIPTION OF THE MARK, AND COLOR CLAIM REQUIRED

A proposed color mark drawing consists of a representation of the product or product package. The drawing of the mark must be a substantially exact representation of the mark as used, or intended to be used, on the goods. 37 C.F.R. §2.51. A depiction of the object on which the color is used is needed to meet this requirement. The object depicted on the drawing should appear in broken or dotted lines. The broken or dotted lines inform the viewer where and how color is used on the product or product package, while at the same time making it clear that the shape of the product, or the shape of the product package, is not claimed as part of the mark. 37 C.F.R. §2.52(b)(4); TMEP §807.08.

The drawing of applicant's applied-for color mark is not acceptable because it excludes the object on which the color is used. *See* 15 U.S.C. §§1051-1052, 1127; 37 C.F.R. §2.52(b)(4); *In re Water Gremlin Co.*, 635 F.2d 841, 844, 208 USPQ 89, 91 (C.C.P.A. 1980); TMEP §1202.02(c)(i)(B).

Therefore, applicant must provide (1) a new drawing of the mark showing the nondistinctive elements in broken or dotted lines, and (2) an amended mark description that references the matter in broken or dotted lines and indicates such matter is not claimed as part of the mark. *See* TMEP §1202.02(c)(i)(B), (c)(ii). Applicant must provide the amended drawing regardless of whether the remaining portions of the mark are determined to be registrable. TMEP §1202.02(c)(i)(B).

Applicant may submit the following mark description, *if accurate*:

The mark consists of the color green defined by Pantone PMS 3425 as applied to the sole of a shoe. The shape of the shoe shown in dotted lines is used to show placement and is not part of the mark.

Applicant must provide an amended color claim that references all the colors in the drawing of the mark. *See* 37 C.F.R. §2.52(b)(1); TMEP §§807.07(a) *et seq.* The generic color green must be included in the color claim.

Applicant may submit the following color claim, *if accurate*:

The color green defined by Pantone PMS 3425 is claimed as a feature of the mark.

See TMEP §1202.02(c)(ii).

The requirements for a color mark drawing are as follows:

- (1) Shows the mark in color on a white background because color is a feature of the mark.
- (2) Is of sufficient quality that will reproduce well.
- (3) Includes in the application a description of all literal and design elements in the mark.

37 C.F.R. §§2.37, 2.52(b), 2.53(b)-(c), 2.54(e); *see* TMEP §§807.04-.04(a), 808.01-.02.

For more information about special form drawings and drawings in general, and instructions on how to submit a drawing, see the [Drawing webpage](#). Additionally, the USPTO will not accept a new drawing in which there are amendments or changes that would materially alter the applied-for mark. 37 C.F.R. §2.72; *see* TMEP §§807.13 *et seq.*, 807.14 *et seq.*

RESPONSE GUIDELINES

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusals and/or requirements in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

If applicant has any questions or requires assistance in responding to this Office Action, please telephone the assigned examining attorney.

/Matthew Howell/
Matthew Howell
Examining Attorney
LO123--LAW OFFICE 123
(571) 270-0992
Matthew.Howell@USPTO.GOV

RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to [abandon](#).** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) [system availability](#) could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.
- **[Responses signed by an unauthorized party](#) are not accepted and can cause the application to [abandon](#).** If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.

- If needed, **find** [contact information for the supervisor](#) of the office or unit listed in the signature block.

(2) DESIGN ONLY



Mark Punctuated

Translation

Goods/Services

- IC 025. US 022 039.G & S: Footwear; Shoes; Footwear for women; Pumps as footwear. FIRST USE: 20220131. FIRST USE IN COMMERCE: 20220131

Mark Drawing Code

(2) DESIGN ONLY

Design Code

090707 290306

Serial Number

97327320

Filing Date

20220323

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

Registration Number

Date Registered

Owner

(APPLICANT) Studio Linton LLC LIMITED LIABILITY COMPANY DELAWARE 969 Bel Air Road Los Angeles CALIFORNIA 90077

Priority Date

Disclaimer Statement

Description of Mark

The color(s) green is/are claimed as a feature of the mark. The mark consists of a drawing of the sole of a pump style high heeled shoe in the color "Pantone(R) 7484 U" or hexadecimal color #456E600, commonly referred

to as forest green, with a dotted line delineating the outline of the rest of the shoe. The dotted line is not claimed as a portion of the mark.

Type of Mark
TRADEMARK

Register
PRINCIPAL

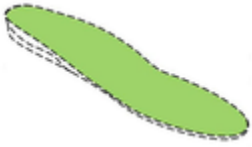
Live Dead Indicator
LIVE

Attorney of Record
Marc E. Hankin

Print: Wed Apr 26 2023

86577429

(2) DESIGN ONLY



Mark Punctuated

Translation

Goods/Services

- IC 025. US 022 039.G & S: Inserts for footwear. FIRST USE: 19771200. FIRST USE IN COMMERCE: 19771200

Mark Drawing Code

(2) DESIGN ONLY

Design Code

090707

Serial Number

86577429

Filing Date

20150326

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20150915

Registration Number

4862509

Date Registered

20151201

Owner

(REGISTRANT) Superfeet Worldwide, Inc. CORPORATION WASHINGTON 1820 Scout Place Ferndale WASHINGTON 98248 (LAST LISTED OWNER) SUPERFEET WORLDWIDE LLC LIMITED LIABILITY COMPANY WASHINGTON 1820 SCOUT PLACE FERNDAL WASHINGTON 98248

Priority Date

Disclaimer Statement

Description of Mark

The color(s) green is/are claimed as a feature of the mark. The mark consists of a footwear insole design colored green. The dotted lines are not part of the mark but are intended only to show placement of the mark on the

goods.

Type of Mark
TRADEMARK

Register
PRINCIPAL-2(F)

Live Dead Indicator
LIVE

Attorney of Record
Darren J Jones

Print: Wed Apr 26 2023

86691919

(2) DESIGN ONLY



Mark Punctuated

Translation

Goods/Services

- IC 025. US 022 039.G & S: Shoes. FIRST USE: 20080630. FIRST USE IN COMMERCE: 20080630

Mark Drawing Code

(2) DESIGN ONLY

Design Code

090705 090706 290306

Serial Number

86691919

Filing Date

20150714

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

Registration Number

4948245

Date Registered

20160426

Owner

(REGISTRANT) DJP CONCEPTS IP SUB, LLC LIMITED LIABILITY COMPANY DELAWARE 10800 NW 97TH STREET, SUITE 103 Miami FLORIDA 33178 (LAST LISTED OWNER) HOUSE OF PLINER, LLC LIMITED LIABILITY COMPANY CALIFORNIA 5401 E. Soto Street Vernon CALIFORNIA 90058

Priority Date

Disclaimer Statement

Description of Mark

The color(s) green is/are claimed as a feature of the mark. The mark consists of the color green on the sole that contrasts with the color of the adjoining upper portion of the goods. The dotted outline of the goods shows the position of the mark on the goods and is not part of the mark.

Type of Mark

TRADEMARK

Register

SUPPLEMENTAL

Live Dead Indicator

LIVE

Attorney of Record

Jill M. Pietrini

(4) STANDARD CHARACTER MARK

POWLAKEN

Mark Punctuated

POWLAKEN

Translation

The wording "POWLAKEN" has no meaning in a foreign language.

Goods/Services

- IC 025. US 022 039.G & S: Footwear; Heels; Insoles; Slippers; Socks; Heel inserts; Insoles for footwear; Men's dress socks; Shoe inserts for primarily non-orthopedic purposes; Trouser socks. FIRST USE: 20210324. FIRST USE IN COMMERCE: 20210324

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

90641938

Filing Date

20210413

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20220111

Registration Number

6684775

Date Registered

20220329

Owner

(REGISTRANT) YAO, JUN INDIVIDUAL CHINA ROOM 202 block 1 Building27 yanling no.135changcheng road daiyue district taian city shandong CHINA 271000

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

TRADEMARK

Register
PRINCIPAL

Live Dead Indicator
LIVE

Attorney of Record
Zhang, Weibo

(4) STANDARD CHARACTER MARK

TPVEEN

Mark Punctuated

TPVEEN

Translation

Goods/Services

- IC 025. US 022 039.G & S: Heel inserts; Heel pieces for shoes; Heelpieces for footwear; Insoles for footwear; Insoles; Polymer custom cushioned shoe inserts for primarily non-orthopedic purposes; Shoe inserts for primarily non-orthopedic purposes; Shoe inserts for primarily non-orthopedic purposes that also deodorize shoes; Shoe soles; Shoe soles for repair; Slipper soles; Soles for footwear; Soles; Stiletto heels. FIRST USE: 20211020. FIRST USE IN COMMERCE: 20211020

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

97110643

Filing Date

20211105

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20220906

Registration Number

6906886

Date Registered

20221122

Owner

(REGISTRANT) Zisheng Zhou INDIVIDUAL CHINA No. 226, Changhong Road, Xiashan Xiashan Street, Chaonan District Shantou, Guangdong CHINA 515100

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

TRADEMARK

Register
PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record
Zhuoyi Ma

(4) STANDARD CHARACTER MARK

Theiokeit

Mark Punctuated

THEIOKEIT

Translation

The English translation of the word "THEIOKEIT" in the mark is "DIVINE".

Goods/Services

- IC 025. US 022 039.G & S: **Footwear**; Shoes; Canvas shoes; Disposable slippers; **Footwear** for men; Leather shoes; Oxford shoes; Shoe accessories, namely, fitted decorative covers for shoes; Shoe covers for use when wearing shoes; **Shoe inserts** for primarily non-orthopedic purposes; **Shoe inserts** for primarily non-orthopedic purposes that also deodorize shoes; Shoe liners; **Shoe soles**; Shoe straps; Women's shoes. FIRST USE: 20211025. FIRST USE IN COMMERCE: 20211025

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

97121628

Filing Date

20211112

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20221004

Registration Number

6928847

Date Registered

20221220

Owner

(REGISTRANT) Shenzhen Aomidi Technology Co., Ltd. limited company (ltd.) CHINA Room 1102, Building A23, Bibo Garden, Longhua Street, Longhua New District, Shenzhen, Guangdong CHINA 518110

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Jingfeng Song

(4) STANDARD CHARACTER MARK

Caloxereci

Mark Punctuated
CALOXERECI

Translation
The wording "Caloxereci" has no meaning in a foreign language.

Goods/Services

- IC 025. US 022 039.G & S: **Footwear**; Shoes; Canvas shoes; Disposable slippers; **Footwear** for men; Leather shoes; Oxford shoes; Shoe accessories, namely, fitted decorative covers for shoes; Shoe covers for use when wearing shoes; **Shoe inserts** for primarily non-orthopedic purposes; **Shoe inserts** for primarily non-orthopedic purposes that also deodorize shoes; Shoe liners; **Shoe soles**; Shoe straps; Women's shoes. FIRST USE: 20210829. FIRST USE IN COMMERCE: 20210829

Mark Drawing Code
(4) STANDARD CHARACTER MARK

Design Code

Serial Number
97017098

Filing Date
20210908

Current Filing Basis
1A

Original Filing Basis
1A

Publication for Opposition Date
20220726

Registration Number
6870068

Date Registered
20221011

Owner
(REGISTRANT) Shenzhen Zhibo Yuning Electronic Technology Co., Ltd. limited company (ltd.) CHINA 9K, No. 7-11, Xinwuyuan New Vil., Gushu Community, Xixiang St., Bao'an Dist., Shenzhen, Guangdong CHINA 361100

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark
TRADEMARK

Register
PRINCIPAL

Live Dead Indicator
LIVE

Attorney of Record
Xinshuo Wang

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS



Mark Punctuated

PIEMAKU

Translation

Goods/Services

- IC 025. US 022 039.G & S: Booties; Chappals; Creepers; Loafers; Footwear; Footwear for men; Footwear for men and women; Footwear, namely, work boots; Knitted baby shoes; Leather boots; Nursing shoes; Rubber shoes; Shoe accessories, namely, fitted decorative covers for shoes; Shoe inserts for primarily non-orthopedic purposes that also deodorize shoes; Shoe soles; Shoes for babies, adults, children, women, men; Tap shoes; Thong sandals; Water repelling footwear; Welts for footwear. FIRST USE: 20201116. FIRST USE IN COMMERCE: 20201116

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

261709

Serial Number

90410209

Filing Date

20201224

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20210810

Registration Number

6535799

Date Registered

20211026

Owner

(REGISTRANT) Quanzhoushi Yiming Keji Youxiangongsi limited company (Ltd.) CHINA
Rm2505,Bldg 8,Zhongjun Baijingwan,No.980 Anji South Rd, Chengdong St, Fengze Dist Quanzhou CHINA

362000

Priority Date

Disclaimer Statement

Description of Mark

The mark consists of the wording "PIEMAKU" in stylized format with an arc above.

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Angus Ni

(4) STANDARD CHARACTER MARK

tatanallie

Mark Punctuated

TATANALLIE

Translation

The wording "TATANALLIE" has no meaning in a foreign language.

Goods/Services

- IC 025. US 022 039.G & S: Boots; Footwear; Pajamas; Slippers; Socks; Swimwear; Baselayer bottoms; Clothing, namely, wrap-arounds; Infants' shoes and boots; Leisure shoes; Pants for babies, adults, children, women, men; Sandals and beach shoes. FIRST USE: 20211201. FIRST USE IN COMMERCE: 20211201

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

97306950

Filing Date

20220311

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20230207

Registration Number

7035221

Date Registered

20230425

Owner

(REGISTRANT) Shenzhen Dingxinmao Technology Co., Ltd. limited company (ltd.) CHINA Rm.1502, Bldg.D,Taoxiafulong Home Garden Gaofeng Community, Dalang Street Longhua Dist.,Shenzhen CHINA 518000

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

TRADEMARK

Register
PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Angus Ni

(4) STANDARD CHARACTER MARK

Egtin Netin

Mark Punctuated

EGTIN NETIN

Translation

The wording "Egtin Netin" has no meaning in a foreign language.

Goods/Services

- IC 025. US 022 039.G & S: Coveralls; Creepers; Footwear; Hats; Mules; Rubbers; Shoes; Socks; Swimwear; Bath sandals; Clothing, namely, wrap-arounds; Footwear, namely, rubbers; Infant wear; Rain suits; Welts for footwear. FIRST USE: 20211206. FIRST USE IN COMMERCE: 20211206

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

97312191

Filing Date

20220315

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20230207

Registration Number

7035424

Date Registered

20230425

Owner

(REGISTRANT) guangzhoubajiushikejiyouxiangongsi limited company (ltd.) CHINA Room 3150, No. 280 Zhongshan Avenue East Road,Huangpu Dist. Guangzhou CHINA 510700

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

TRADEMARK

Register
PRINCIPAL

Live Dead Indicator
LIVE

Attorney of Record
Angus Ni

(4) STANDARD CHARACTER MARK

Savoni Marton

Mark Punctuated

SAVONI MARTON

Translation

The wording "Savoni Marton" has no meaning in a foreign language.

Goods/Services

- IC 025. US 022 039.G & S: **Boots**; Briefs; **Footwear**; Insoles; **Shoes**; Clothing items, namely, adhesive pockets that may be affixed directly to the body as a decorative piece of clothing with utility; Dress straps; Leather **shoes**; Men's dress socks; Sports **shoes**. FIRST USE: 20220314. FIRST USE IN COMMERCE: 20220314

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

97321236

Filing Date

20220320

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20230207

Registration Number

7036154

Date Registered

20230425

Owner

(REGISTRANT) Guo, Zhenzhen INDIVIDUAL CHINA No. 143, Liudiquan Village Chezhan Town, Xiayi County HeNan Province CHINA 476444

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

WILLIAM SCOTT GOLDMAN

(4) STANDARD CHARACTER MARK

CHAUMER

Mark Punctuated

CHAUMER

Translation

The wording "CHAUMER" has no meaning in a foreign language.

Goods/Services

- IC 025. US 022 039.G & S: Boots; Sandals; Shoes; Skirts; Underwear; Belts; Boots for sport; Caps being headwear; Coats; Gloves; Hosiery; Pants; Pyjamas; Rain boots; Scarves; Short-sleeve shirts; Slippers; Sports shoes; Suits; Tops as clothing. FIRST USE: 20211201. FIRST USE IN COMMERCE: 20220105

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

97326424

Filing Date

20220323

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20230207

Registration Number

7036739

Date Registered

20230425

Owner

(REGISTRANT) Zhan Bowen INDIVIDUAL CHINA No. 25, Daji Village, Daji Town, Xianyou County, Fujian Province, CHINA 351200

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

TRADEMARK

Register
PRINCIPAL

Live Dead Indicator
LIVE

Attorney of Record
Joe McKinney Muncy

(4) STANDARD CHARACTER MARK

Walkhero

Mark Punctuated

WALKHERO

Translation

Goods/Services

- IC 025. US 022 039.G & S: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Beach shoes; Belts; Bikinis; Boots; Coats; Dresses; Footwear; Gloves; Housecoats; Insoles; Neckwear; Polo shirts; Scarfs; Shawls; Shoe straps; Slippers; Snow boots; Socks; Sweaters; Swim wear; T-shirts; Underwear; Waistbands; Waterproof footwear; Wedding gowns; Yoga pants.
FIRST USE: 20220221. FIRST USE IN COMMERCE: 20220221

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

97325271

Filing Date

20220322

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20230207

Registration Number

7036644

Date Registered

20230425

Owner

(REGISTRANT) Fuzhou Winggood Technology Co. Ltd. limited company (Ltd.) CHINA No. 618 Jinshan Avenue Jianxin Town Cangshan District Fuzhou, Fujian CHINA 361000

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Wei Wang

FINISH LINE

Search

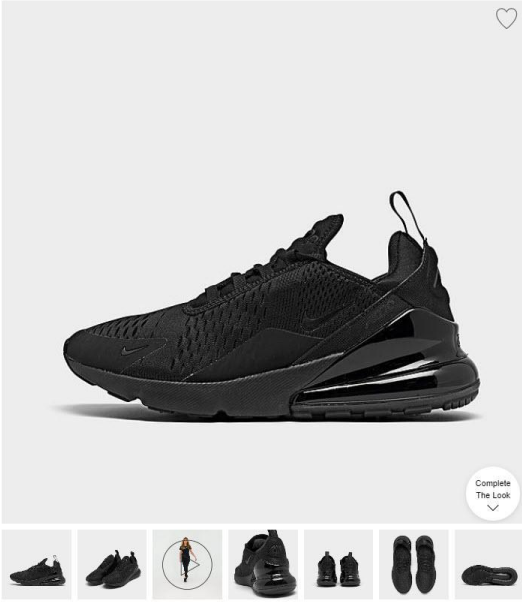
Dulles Town C...

Account

Bag

NEW ARRIVALS MEN WOMEN BOYS GIRLS CLOTHING ACCESSORIES SALE BRANDS SNEAKER RELEASES

Home / Women / Shoes / Running



★★★★★ (1106)

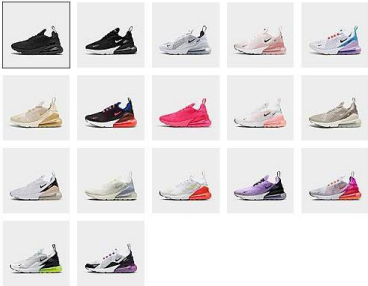
WOMEN'S NIKE AIR MAX 270 CASUAL SHOES

\$160.00

Or 4 interest-free installments with **Klarna**, or **afterpay** [Info](#)

Color

Black/Black/Black - AH6789 006



Size

[Size Chart](#)

5.0	5.5	6.0	6.5	7.0
7.5	8.0	8.5	9.0	
10.0	10.5	11.0	11.5	

Complete
The Look



By using our website, mobile app or other online

GOING FAST 109 people purchased this product today

Style Your Outfit



★★★★★ (103)

MEN'S NIKE AIR MAX 90 LEATHER CASUAL SHOES

\$140.00

Or 4 interest-free installments with **Klarna**, or **afterpay** [Info](#)

Color

White/White/White - CZ5594 100



Size

Size Chart

6.0	6.5	7.0	7.5	8.0
8.5	9.0	9.5	10.0	10.5
11.0	11.5	12.0	12.5	13.0
14.0	15.0			

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FREE PICKUP

In Stock

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STATUS GET POINTS. GAIN ACCESS. BOOST YOUR STATUS.

FINISH LINE

Search

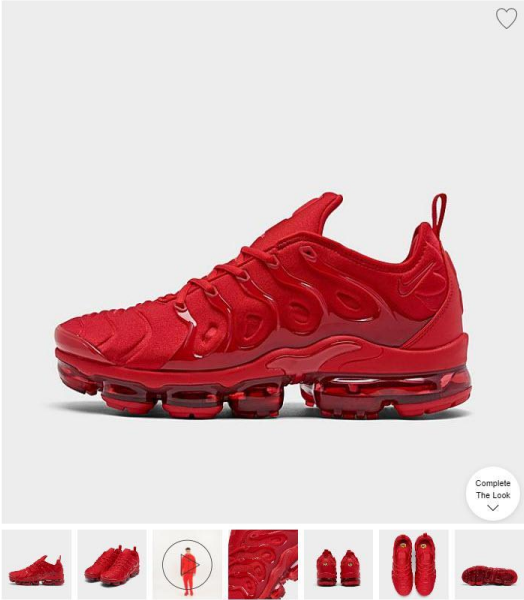
Dulles Town C...

Account

Bag

NEW ARRIVALS | MEN | WOMEN | BOYS | GIRLS | CLOTHING | ACCESSORIES | SALE | BRANDS | SNEAKER RELEASES

Home / Women / Shoes / Running



★★★★★ (1087)

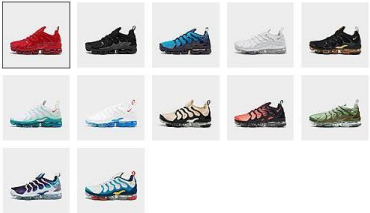
NIKE AIR VAPORMAX PLUS RUNNING SHOES

\$210.00

Or 4 interest-free installments with **Klarna**, or **afterpay** [Info](#)

Color

University Red/University Red - CW6973 600



Size [Size Chart](#)

M 6.0 / W 7.5	M 6.5 / W 8.0	M 7.0 / W 8.5	M 7.5 / W 9.0
M 8.0 / W 9.5	M 8.5 / W 10.0	M 9.0 / W 10.5	M 9.5 / W 11.0
M 10.0 / W 11.5	M 10.5 / W 12.0	M 11.0 / W 12.5	M 11.5 / W 13.0
M 12.0 / W 13.5	M 12.5 / W 14.0	M 13.0 / W 14.5	M 14.0 / W 15.5
M 15.0 / W 16.5			

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👤

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🛒

NEW

PROM

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DRESSES

WEDDINGS

TOPS

BOTTOMS

CLOTHING

SWIM

SHOES

ACCESSORIES

SALE


New Arrivals

Bestsellers

Summer Preview

Short Dresses

Sexy Tops



👤

Ciri Beige Cork Platform High Heel Sandals

★★★★★ (3)

\$45

Pay in 4 installments of \$11.25 with [afterpay](#) or [Klarna](#).

Talk to a Fit Expert

Beige

5.5

6

6.5

7

7.5

8

8.5

9

10

FIT FINDER

[Find your size](#)

Fit Note: Fit is true to size.

ADD TO BAG

+ WISHLIST

🚚


Free Shipping Over \$50 & Free Returns! [See More](#)


DESCRIPTION


Warm weather is calling and we can't wait to wear the Ciri Beige Cork Platform High Heel Sandals all summer long! These cute sandals are composed of textured cork that shapes an almond-shaped toe bed and a 1.75" toe platform, while faux suede creates a wide toe strap and an adjustable quarter strap (with a silver buckle). A cork-wrapped block heel completes the on-trend look!


- 4.25" Cork-Wrapped Block Heel.
- Lightly Cushioned Insole.
- Rubber Sole Has Nonskid Markings.
- All Man Made Materials.
- Imported.
- Style 1819156


SIMILAR ITEMS

















10:00:28 AM 4/27/2023

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Jania Navy Blue Satin Lace-Up High Heel Sandals

Lulus | ★★★★★ (23)

\$38

Pay in 4 installments of \$9.50 with [afterpay](#) or [Klarna](#).

Talk to a Fit Expert

Navy Blue

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Size Chart

 | Fit Note: Fit is true to size.

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Free Shipping Over \$50 & Free Returns! [See More](#)


DESCRIPTION


Lulus Exclusive! The party doesn't start till the Lulus Jania Navy Blue Satin Lace-Up High Heel Sandals walk in! A must-have for any closet, these sleek satin heels (that have a bit of shine) boast a trendy square toe, a wide toe strap, and two long ties that sprout from the sides to wrap and tie around the ankle. Pair with any LBD or dress for a chic finish!


- 4.25" wrapped heel.
- Cushioned insole.
- Felted rubber sole has nonskid markings.
- Man made materials.
- Imported.
- Style 1456676


SIMILAR ITEMS

















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♡

Layra Orange Suede Lace-Up Slingback Pumps

Lulus | ★★★★★ (16)

\$34

Pay in 4 installments of \$8.50 with [afterpay](#) or [Klarna](#).

[Talk to a Fit Expert](#)

Orange

Size sold out? [Join the Waitlist](#)

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[Size Chart](#) | Fit Note: Fit is true to size.

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 Free Shipping Over \$50 & Free Returns! [See More](#)


DESCRIPTION


Lulus Exclusive! The Lulus Layra Orange Suede Lace-Up Slingback Pumps aren't your average pump—she can really do it all! Soft faux suede shapes a pointed-toe upper, a square-cut vamp, and long laces (with silver aglets) that sprout from a clear vinyl slingback.


- 3.5" wrapped pyramid heel.
- Cushioned insole.
- Rubber sole has nonskid markings.
- Man-made materials.
- Imported.
- Style 1614396


SIMILAR ITEMS

















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Nani Pale Yellow Lace-Up High Heel Sandals

Lulus | ★★★★★ (44)

\$15 ~~\$99~~

Pay in 4 installments of \$3.75 with [afterpay](#) or [Klarna](#).

FINAL SALE. No returns or exchanges.

[Talk to a Fit Expert](#)

Pale Yellow

Size sold out? [Join the Waitlist](#)

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[Size Chart](#) | Fit Note: Fit is true to size.

ADD TO BAG

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Free Shipping Over \$50! [See More](#)


DESCRIPTION


Lulus Exclusive! Take your outfit for a cute and chic ride with the Lulus Nani Pale Yellow Lace-Up High Heel Sandals! Smooth faux leather shapes a trendy square toe footbed and long laces that create a thong upper and weaves over a slender toe strap and under a single vamp strap before wrapping and tying above the ankle. Pair with a flowy sundress or keep it casual with denim bottoms and a cute top!


- 3.5" wrapped block heel.
- Cushioned insole.
- Rubber sole has nonskid markings.
- Man made materials.
- Imported.
- Style 1678576


SIMILAR ITEMS

















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♡

Alta Lilac Satin Lace-Up Heels

Lulus | ★★★★★ (653)

\$42

Pay in 4 installments of \$10.50 with [afterpay](#) or [Klarna](#).

Talk to a Fit Expert

Lilac

Size sold out? [Join the Waitlist](#)

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Size Chart

 | Fit Note: Fit is true to size.

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Free Shipping Over \$50 & Free Returns! [See More](#)

DESCRIPTION

The Lulus Alta Lilac Satin Lace-Up Heels are the perfect finishing touch to all your flirty dresses! These sleek, lilac satin sandals feature a single toe strap, along with long straps that start at the vamp and wrap around to tie above the ankle.

- 3.75" wrapped block heel.
- Lightly cushioned insole.
- Rubber sole has nonskid markings.
- Man-made materials.
- Imported.
- Style 2042516

SIMILAR ITEMS



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10:04:14 AM 4/27/2023

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on April 27, 2023 for
U.S. Trademark Application Serial No. 97470440

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

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- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

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